

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fenkel	Team: Squad #6	CCRB Case #: 201804460	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/11/2018 6:00 AM	Location of Incident: § 87(2)(b)	Precinct: 114	18 Mo. SOL 10/11/2019	EO SOL 10/11/2019	
Date/Time CV Reported Fri, 04/13/2018 11:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 06/05/2018 11:01 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT David Oconnell	03337	916345	DB CEIS
2. DT3 Andres Libreros	04129	935187	DB CEIS
3. DT3 Jason Petri	04320	942345	DB CEIS
4. Officers			DB CEIS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Leandro Castro	02345	938195	DB CEIS
2. DT2 Sean McLoughlin	07696	898038	DB CEIS
3. DT2 David Bailey	06844	932289	DB CEIS
4. DT2 Michael Robbert	06469	904914	DB CEIS
5. DT2 Leslie Johnson	06371	895582	DB CEIS

Officer(s)	Allegation	Investigator Recommendation
A.SGT David Oconnell	Abuse: Sergeant David Oconnell entered § 87(2)(b) in Queens.	§ 87(2)(b)
B.SGT David Oconnell	Abuse: Sergeant David Oconnell searched § 87(2)(b) in Queens.	§ 87(2)(b)
C. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
D.DT3 Andres Libreros	Force: Detective Andres Libreros used physical force against § 87(2)(b)	§ 87(2)(b)
E.DT3 Jason Petri	Force: Detective Jason Petri used physical force against § 87(2)(b)	§ 87(2)(b)
F.SGT David Oconnell	Abuse: Sergeant David Oconnell refused to show the search warrant to § 87(2)(b)	§ 87(2)(b)
G.SGT David Oconnell	Abuse: Sergeant David Oconnell refused to show the search warrant to § 87(2)(b)	§ 87(2)(b)
H.SGT David Oconnell	Abuse: Sergeant David Oconnell threatened to notify Administration for Children's Services.	§ 87(2)(b)
I.SGT David Oconnell	Abuse: Sergeant David Oconnell threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

On April 13, 2018, § 87(2)(b) filed this complaint via telephone with the Internal Affairs Bureau on behalf of herself and her daughter's father, § 87(2)(b)'s complaint was received at the CCRB on June 5, 2018.

On April 11, 2018, at approximately 6:00 a.m., Sgt. David Oconnell, Det. Andres Libreros, Det. Jason Petri, and additional officers from the Organized Crime Division, executed a search warrant at § 87(2)(b)'s home, located at § 87(2)(b) in Queens (**Allegations A – B: Abuse of Authority**, § 87(2)(g)). Unidentified officers allegedly grabbed § 87(2)(b) by her shirt collar, pulled her into her apartment, and pushed her onto her couch (**Allegation C: Force**, § 87(2)(g)). Det. Libreros and Det. Petri allegedly pushed § 87(2)(b) onto the ground (**Allegations D – E: Force**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) requested to see a copy of the search warrant and Sgt. Oconnell allegedly refused to show it (**Allegations F – G: Abuse of Authority**, § 87(2)(g)). Sgt. Oconnell allegedly told § 87(2)(b) he could call ACS to remove § 87(2)(b) and allegedly told § 87(2)(b) that he could be arrested if he didn't stop talking (**Allegation H - I: Abuse of Authority**, § 87(2)(g)).

No arrests or summonses resulted from this incident.

There is no video evidence in this case.

Findings and Recommendations

Allegation A – Abuse of Authority: Sergeant David Oconnell entered § 87(2)(b) in Queens.

Allegation B – Abuse of Authority: Sergeant David Oconnell searched § 87(2)(b) in Queens.

It is undisputed that officers entered and searched § 87(2)(b) in Queens with their guns pointed.

Det. Leandro Castro of the Organized Crime Division (Board Review 01), the affiant for the search warrant, was not present during its execution. The entry and search allegations have therefore been pleaded to Sgt. Oconnell, identified to be the supervisor at the location.

Article 690.50 of the Criminal Procedure Law (Board Review 02) permits officers who have obtained a valid judge-issued search warrant to forcefully enter a premise and conduct a full and thorough search for contraband. Search warrant #§ 87(2)(b) (Board Review 03), issued by Criminal Court Judge § 87(2)(b) on § 87(2)(b) authorized officers to enter § 87(2)(b) and search the location for currency and other evidence of proceeds from drug trafficking, including but not limited to financial records, cellular telephones or electronic communication equipment, and evidence of ownership and use of the target premises, such as bills, bank statements, leases, or rent receipts.

§ 87(2)(g)

Allegation C – Force: Officers used physical force against § 87(2)(b)

§ 87(2)(b) (Board Review 04) testified that that she was leaving her apartment at the time of the incident, and had just stepped out of her front door when approximately six plainclothes officers ran towards her. The officers yelled, "Cops! Cops!" and ran inside toward the rear of § 87(2)(b)'s apartment. One of the officers, described as a light-skinned man with a

muscular build, yelled “Get back!” and grabbed § 87(2)(b) by her shirt, near the collar, and pulled her back inside of the apartment. § 87(2)(b) began to cry and asked what was happening. An officer, § 87(2)(b) could not recall who, ordered her to sit down and forcefully pushed her by her shoulder onto her living room couch.

§ 87(2)(b) (Board Review 05) testified that he was asleep in a bedroom when officers made entry and therefore did not witness this aspect of the incident.

Det. Libreros (Board Review 06) and Det. Petri (Board Review 07) both testified that they were the first officers to enter the apartment. Both Det. Libreros and Det. Petri corroborated § 87(2)(b)'s account that she opened the front door prior to it being breached. Det. Libreros testified that he ordered § 87(2)(b) to get down and that she immediately laid down on the floor. Det. Petri testified that he ran by § 87(2)(b) without having any physical contact with her. Both Det. Libreros and Det. Petri denied that they grabbed § 87(2)(b) by her shirt and pulled her inside of the apartment and denied seeing any other officer do so. Det. Libreros and Det. Petri each acknowledged later seeing § 87(2)(b) on a couch in the living room, but denied seeing how she got there and denied pushing § 87(2)(b) onto the couch.

Det. McLoughlin (Board Review 08), Sgt. Oconnell (Board Review 09), Det. Bailey (Board Review 10), Det. Robbert (Board Review 11), and Det. Johnson (Board Review 12) each denied pulling § 87(2)(b) by her shirt or pushing § 87(2)(b) onto her couch and denied seeing any other officer do so.

A search for Threat, Resistance, or Injury Reports (TRI) prepared regarding force used against § 87(2)(b) yielded negative results (Board Review 13).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation D – Force: Detective Andres Libreros used physical force against § 87(2)(b)

Allegation E – Force: Detective Jason Petri used physical force against § 87(2)(b)

§ 87(2)(b) testified that multiple officers ordered him to get down to the floor outside of the bedroom. § 87(2)(b) did not go down to the floor and instead knelt down onto his knees. Det. Libreros and Det. Petri, identified by the investigation, each grabbed § 87(2)(b) by one of his arms and § 87(2)(b) told them that he did not want to go onto the floor. Det. Libreros and Det. Petri allegedly pulled § 87(2)(b) downward by his arms and one of the officers, Det. § 87(2)(b) could not discern who, placed one hand onto his back and pushed onto the floor.

§ 87(2)(b) was not present during this aspect of the incident.

Det. Libreros and Det. Petri both testified that they were assigned together as Bunker One, but were each unable to recall specifically where they went upon entry or where they initially encountered § 87(2)(b). However, Det. Libreros acknowledged that he escorted § 87(2)(b) into a bedroom, and this allegation has therefore been pleaded to Det. Libreros and Det. Petri. Det. Libreros and Det. Petri each denied that they used any physical force against § 87(2)(b) and denied seeing any other officer do so.

Det. Robbert and Det. Johnson each testified that they first encountered § 87(2)(b) in the living room after he was already handcuffed and secured. Det. Robbert nor Det. Johnson denied that they saw Det. Libreros or Det. Petri use any physical force against § 87(2)(b).

Neither Sgt. Oconnell, Det. Bailey, nor Det. McLoughlin were present during this aspect of the incident.

According to NYPD Patrol Guide, Procedure 221-02 (Board Review 14), officers may use reasonable force under the circumstances to gain control of a person who is resisting.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation F – Abuse of Authority: Sergeant David Oconnell refused to show the search warrant to § 87(2)(b)

Allegation G – Abuse of Authority: Sergeant David Oconnell refused to show the search warrant to § 87(2)(b)

§ 87(2)(b) testified that while she was sitting on the couch, she asked the officers who they were looking for and if they had a warrant. § 87(2)(b) was not addressing any specific officer, but expected that an officer would show her a copy of the search warrant when she asked if they had one. However, § 87(2)(b) was never shown a copy of the search warrant.

§ 87(2)(b) testified that after he was handcuffed and escorted to the living room, he observed § 87(2)(b) ask the officers what was happening. § 87(2)(b) did not hear § 87(2)(b) explicitly mention a warrant. § 87(2)(b) asked Sgt. Oconnell, whom he described as appearing to be in charge and carrying paperwork, where the search warrant was. However, Sgt. Oconnell told § 87(2)(b) to stop talking and never showed him a copy of the search warrant.

Sgt. Oconnell testified that a copy of the search warrant is typically carried by the ranking officer on scene. Given that Sgt. Oconnell was identified as the supervisor at the location, these allegations have therefore been pleaded to him. Sgt. Oconnell did not recall if he carried a copy of the search warrant on him. Sgt. Oconnell could not recall if § 87(2)(b) or § 87(2)(b) ever mentioned a search warrant or asked to see a copy of one. Sgt. Oconnell denied that he ever refused to show a copy of the search warrant to § 87(2)(b) or § 87(2)(b).

Det. Libreros testified that after the apartment was secured, both § 87(2)(b) and § 87(2)(b) were seated together on the living room couch. Both § 87(2)(b) and § 87(2)(b) were very upset, yelled that the officers had the wrong apartment, and each requested to see a copy of the search warrant. Det. Libreros was unaware as to if § 87(2)(b) or § 87(2)(b) were ever shown a copy of the search warrant but denied that Sgt. Oconnell ever refused to show it.

Det. Robbert corroborated that § 87(2)(b) said something regarding a search warrant. However, Det. Robbert could not recall what he said and denied that it was a request to see the search warrant. Det. Robbert could not recall how anyone responded to § 87(2)(b) mention of a search warrant, as § 87(2)(b) was yelling and cursing at the officers in the living room and was not addressing anyone in particular. Det. Robbert denied that § 87(2)(b) said anything regarding a search warrant. Det. Robbert denied that Sgt. Oconnell ever refused to show a copy of the search warrant to § 87(2)(b) or § 87(2)(b).

Neither Det. Petri, Det. McLoughlin, Det. Bailey, nor Det. Johnson could recall if § 87(2)(b) or § 87(2)(b) said anything regarding a search warrant. Det. Petri, Det. McLoughlin, Det.

Bailey, and Det. Johnson each denied that Sgt. Oconnell ever refused to show § 87(2)(b) or § 87(2)(b) a copy of the search warrant.

According to NYPD Patrol Guide, Procedure 221-17 (Board Review 15), officers have a legal obligation to show a copy of the search warrant to an occupant of a premises upon request, safety permitting.

§ 87(2)(g)

[REDACTED]

Allegation H – Abuse of Authority: Sergeant David Oconnell threatened to notify Administration for Children's Services.

Allegation I – Abuse of Authority: Sergeant David Oconnell threatened to arrest § 87(2)(b)

[REDACTED]

§ 87(2)(b) testified that as she asked the officers if they had a warrant Sgt. Oconnell told allegedly told her to shut up and that the officers could have ACS come and remove § 87(2)(b)'s nine-year-old daughter, if they wanted to. § 87(2)(b) also yelled, “Why are you arresting me? Who are you all here for?” Sgt. Oconnell allegedly told § 87(2)(b) that he could take him to jail and he and § 87(2)(b) began to argue back and forth. § 87(2)(b) was unable to recall § 87(2)(b) interaction with Sgt. Oconnell in more detail.

§ 87(2)(b) testified that that Sgt. Oconnell made a statement regarding ACS, but he was unable to recall what. § 87(2)(b) asked the officers what was going on and stated that they were racist for not providing more information. Det. Libreros told § 87(2)(b) that he was “using the race card.” Sgt. Oconnell allegedly stated that § 87(2)(b) would go to jail if he did not stop talking and that he would be charged with anything found in the bedroom down the hall from the one he had slept in.

Sgt. Oconnell described § 87(2)(b) as very cooperative and § 87(2)(b) as very uncooperative. Sgt. Oconnell did not recall if he ever discussed ACS with § 87(2)(b) and denied that he ever threatened to have ACS come and remove § 87(2)(b). § 87(2)(b) yelled that the officers had no right to be there and Sgt. Oconnell ordered him to calm down. Sgt. Oconnell denied that he told § 87(2)(b) he would be arrested if he did not stop talking and or that he would be charged with anything found inside of one of the bedrooms.

Det. Libreros, Det. Robbert, Det. Petri, Det. Mcloughlin, Det. Bailey, and Det. Johnson denied that Sgt. Oconnell threatened to call ACS or threatened to arrest § 87(2)(b).

§ 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 16).
- § 87(2)(b)
[REDACTED]
[REDACTED]
[REDACTED]
- Sgt. Oconnell has been a member of the service for 23 years and has been a subject in 10 CCRB complaints and 17 allegations, of which one was substantiated:
 - Case #200917093 involved a substantiated entry and search allegation against Sgt. Oconnell. The Board recommended charges and the NYPD imposed instructions.
 - § 87(2)(g) [REDACTED]
[REDACTED]
- Det. Libreros has been a member of the service for 14 years and has been a subject in two CCRB complaints and 16 allegations, of which two were substantiated:
 - Case #201604285 involved a substantiated question and search of person allegation against Det. Libreros. The Board recommended formalized training and the NYPD issued no disciplinary action.
- Det. Petri has been a member of the service for 12 years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g) [REDACTED]
[REDACTED]

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A Notice of Claim Inquiry was submitted to the NYC Comptroller's Office on March 18, 2019 and will be included in the case file upon its receipt (Board Review 18).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]

Squad No.: #6

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date